

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

| | | |
|------------------------------|---|---------------------------|
| Cynthia M. Jackson |) | |
| |) | C/A No. 8:06-cv-01760-GRA |
| Petitioner, |) | |
| |) | |
| v. |) | AMENDED ORDER |
| |) | (Written Opinion) |
| Morningside Assisted Living, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

The only amendment to the original order consists of a change in the date the order was signed. This amendment was necessary to accurately reflect the actual date the order was signed.

This matter is before the Court for a review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(A) and Local Rule 73.02(B)(2)(e), D.S.C. The magistrate recommended dismissal of this case pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for lack of prosecution.

Plaintiff brings this case *pro se*. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Cruz v. Beto*, 405 U.S. 319 (1972).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final

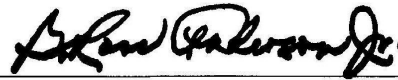
determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject or modify, in whole or in part, the recommendation of the magistrate, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983).

Defendant filed a Second Motion for Dismissal on May 18, 2007. A *Roseboro* order was sent to the plaintiff on May 21, 2007, fully explaining the consequences of a failure to respond to the defendant's dismissal motion. *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975). The magistrate's Report and Recommendation recommending dismissal was filed on June 28, 2007; the magistrate mailed a copy of his Recommendation to the plaintiff on June 29, 2007. No objections to the Report and Recommendation have been filed.

After a review of the magistrate's Report and Recommendation, this Court finds that the report is based upon the proper law and substantial evidence exists to support the factual findings. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that the Report and Recommendation of the magistrate is accepted and adopted as the Order of this Court. Plaintiff's case is DISMISSED for lack of prosecution.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

August 13, 2007
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff has the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, will waive the right to appeal.